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 DATE 1/14/05

UNITED STATES DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS

JEFFERSON JONES,  
 Plaintiff

v.

MARY M. WALKER, in her individual  
 capacity

Defendant

Civil Action No. \_\_\_\_\_

**05 10102 RCL**

**COMPLAINT AND JURY DEMAND**

MAGISTRATE JUDGE Collings

**Introduction**

- 1) This is an action for money damages brought against a Wareham police officer for violations of the Plaintiff's civil rights by arresting him without probable cause and using excessive force to do so.

**Jurisdiction and Venue**

- 2) This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1332, 1343(a)(3) and 1343(a)(4); and, with respect to claims asserted under state law, pursuant to 28 U.S.C. §1367. The matter in controversy exceeds the sum or value of \$75,000.
- 3) Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. §§1391(a) and 1391(b)(3) because the events giving rise to the claims arose here and because the Defendant is located within this District.

**Parties**

- 4) Plaintiff Jefferson Jones ("Jones") was at all times material to this complaint a citizen of Brooklyn, New York.

- 5) Defendant Mary M. Walker was at all times material to this complaint employed as a police officer by the Wareham Police Department. Her actions alleged in this complaint were taken under color of state law and she is sued in her individual capacity. Upon information and belief, Walker is a citizen of Massachusetts.

**Facts**

- 6) On June 28, 2003, Jones took a chartered bus from Brooklyn, New York to go on a fishing trip aboard the Onset Chief fishing boat in Onset, Massachusetts (“Onset Chief”). Annually, Jones has taken a fishing trip to Massachusetts along with a group of other people from the Brooklyn, New York area.
- 7) When Jones arrived in Onset on June 28, 2003, he boarded the Onset Chief with his group, most of whom were middle aged or older and African American.
- 8) Jones and the other passengers were each given by the “mates” aboard the ship a small container of bait with which to fish. Once Jones used up this bait, he asked the mates for an additional supply.
- 9) When Jones’s request for additional bait was not satisfied, he complained to the captain of the boat. Surprisingly, the captain responded to Jones by telling him that the boat was returning to shore.
- 10) As the boat approached shore, Jones observed several police officers standing at the pier. The captain told Jones that the officers were waiting for him.
- 11) When Jones disembarked from the boat, the officers, including the Defendant Walker, approached Jones and began aggressively to interrogate him. The Defendant Walker demanded that Jones show her his fishing license.

- 12) Jones was extremely perplexed when the police officers questioned him. Jones tried to answer the questions, but was frightened and was having trouble speaking.
- 13) The Defendant Walker then aggressively arrested Jones, handcuffed him and with excessive force, tightened the handcuffs on Jones's wrists. Jones immediately made known that the cuffs were too tight, but Walker did not loosen them. Jones begged the Defendant Walker to loosen the handcuffs because they were much too tight and causing him extreme pain.
- 14) After a lapse of time, the Defendant Walker attempted to loosen the handcuffs but she was unable to do so. Thereafter, another officer loosened the cuffs. When the cuffs were finally loosened, Jones was in tears from the pain in his wrists.
- 15) Jones was then transported to the police station. He was not charged with any crime and was ultimately released.
- 16) Thereafter, Jones went to the hospital due to weakness, numbness and pain in his wrists. The weakness, numbness and pain in his wrists have persisted to the present day.
- 17) Because of the damage the handcuffs caused to Jones's wrists, Jones was unable to continue working as a carpenter, a job that he had obtained during the week before the incident.
- 18) The conduct of the Defendant was humiliating and frightening and caused Jones to suffer physical and emotional harm, loss of income and expenses.

**Count One: 42 U.S.C. §1983 (Unlawful Seizure)**

- 20) The above paragraphs are incorporated by reference.

- 21) Defendant Walker unlawfully and unreasonably seized Jones without probable cause in violation of the Fourth Amendment of the United States Constitution and 42 U.S.C. § 1983.
- 22) By the actions described above, Defendant Walker deprived the Plaintiff of his clearly established and well-settled rights not to be unlawfully and unreasonably seized by police officers acting under color of state law.
- 23) As a direct and proximate result of the conduct of Defendant Walker, Jones was damaged.

**Count Two: 42 U.S.C. §1983 (Excessive Force)**

- 24) The above paragraphs are incorporated by reference.
- 25) Defendant Walker used unreasonable and excessive force on Jones in violation of 42 U.S.C. § 1983.
- 26) By the actions described above, Defendant Walker deprived the Plaintiff of his clearly established and well-settled rights not to be subjected to unreasonable and excessive force by police officers acting under color of state law. The Defendant Walker deprived the Plaintiff of clearly established and well-settled constitutional rights. She acted with reckless disregard for the Plaintiff's constitutional rights.
- 27) As a direct and proximate result of the conduct of Defendant Walker, Jones was damaged.

**Count Three: (Violation of State Civil Rights Act)**

- 28) The above paragraphs are incorporated by reference.
- 29) Defendant Walker's conduct interfered with the Plaintiff's exercise or enjoyment of rights secured by the constitution or laws of the United States and of

Massachusetts by threats, intimidation or coercion thereby violating the  
Massachusetts Civil Rights Act, M.G.L. Ch. 12 §11(i).

- 30) As a direct and proximate result of the conduct of Defendant Walker, Jones was  
damaged.

**WHEREFORE**, the Plaintiff requests that this Court:

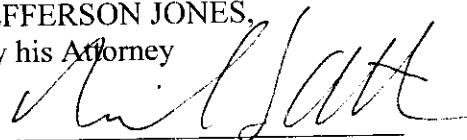
- A) Award him compensatory damages;
- B) Award him punitive damages;
- C) Award him the costs of this action, including reasonable attorney's fees;
- D) Award him pre and post judgment interest; and
- E) Award such other and further relief as this Court may deem necessary and  
appropriate.

**Jury Demand**

A jury trial is hereby demanded.

Respectfully Submitted,

JEFFERSON JONES,  
By his Attorney



Michael L. Altman, BBO #016800  
Altman & Citron  
One Commercial Wharf West  
Boston, MA 02110  
(617) 742-2772

Dated: January 13, 2005

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Jones, Jefferson

(b) County of Residence of First Listed Plaintiff Kings County, NY  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael L. Altman, Altman & Citron  
One Commercial Wharf West, Boston, MA 02110; (617) 742-2772

**DEFENDANTS**

Wareham, MA Police Department  
Walker, Mary M., police officer

County of Residence of First Listed Defendant Plymouth  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify) \_\_\_\_\_
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 1983

Brief description of cause:

violation of Fourth Amendment rights

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

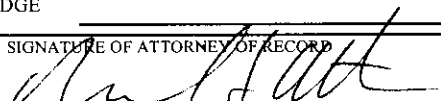
JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

01/13/04

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Jefferson Jones v. Mary M. Walker

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

☐

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

☐

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

☐

V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Michael L. Altman, Altman & CitronADDRESS One Commercial Wharf West, Boston, MA 02110TELEPHONE NO. (617) 742-2772